

THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

HUAWEI DEVICE CO., LTD., and
HUAWEI DEVICE USA, INC.,

Defendants.

CASE NO. 2:19-cr-00010-RSM

**STIPULATED MOTION FOR TRIAL
CONTINUANCE**

**NOTED FOR HEARING:
Wednesday, January 18, 2023**

I. INTRODUCTION.

IT IS HEREBY REQUESTED by and between the United States of America, by Assistant United States Attorneys Todd Greenberg and Thomas M. Woods, and the defendants, HUAWEI DEVICE CO., LTD., and HUAWEI DEVICE USA, INC., by and through their undersigned attorneys, that the trial date in the above-captioned matter be continued until October 28, 2024, and that the Court enter the proposed Fifth Amended Case Scheduling Order.

II. THE REASONS SUPPORTING THE REQUESTED TRIAL CONTINUANCE.

In February 2022, at the request of the parties, the Court continued the trial in this matter, set a new trial date of October 16, 2023, and entered the Fourth Amended Case Scheduling Order. *See* Dkt. 86.

1 For the reasons set forth below, the parties are now requesting that the Court grant this joint
 2 request for another one-year continuance of the trial date. As this Court has recognized in its
 3 numerous General Orders, the outbreak of the Coronavirus Disease 2019 (COVID-19) has had a
 4 significant impact in the Western District of Washington and elsewhere throughout the United
 5 States and worldwide, including in China. This has had, and will continue to have, a substantial
 6 adverse effect on the ability of counsel to prepare for the trial and pretrial litigation in this case.
 7 The virus has made it difficult for defense counsel to communicate and coordinate with their clients
 8 and potential witnesses, many of whom are located in various cities in China. Additionally, the
 9 pandemic makes it impossible for the parties to schedule trial preservation depositions, pursuant
 10 to Federal Rule of Criminal Procedure 15, of the numerous witnesses who are currently living in
 11 China and elsewhere. Indeed, the U.S. State Department issued a Level 3: Reconsider Travel
 12 advisory for China on December 23, 2022, urging travelers to reconsider traveling to China due
 13 to, among other things, the “surge in COVID-19 cases” and “COVID-19-related restrictions.”¹
 14 This travel advisory is still active.

15 Due to continuing travel restrictions, together with the continuing risk of infection with
 16 COVID-19 in China and elsewhere, among other things, it is impractical for witnesses to travel
 17 from China to a third country for depositions. Similarly, it is not practical at this time for numerous
 18 witnesses to engage in international travel to the Western District of Washington for purposes of
 19 testifying at a trial and/or pretrial hearings.

20 Furthermore, as this Court has previously noted, this case involves a very large volume of
 21 discovery materials and the charges in the Indictment are complex. The complexity of this matter
 22 was amplified in February 2020, upon the return of a superseding indictment in the case of *United*
 23 *States of America v. Huawei Technologies Co., Ltd., et al.*, CR18-457, in the Eastern District of
 24 New York. That indictment contains allegations brought against the same Huawei corporate
 25 defendants that are charged in the indictment filed in the Western District of Washington.
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27 ¹ See <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/china-travel-advisory.html>.

1 Moreover, some of the allegations in the superseding indictment filed in the Eastern District of
2 New York are directly related to the charges contained in the indictment filed in the Western
3 District of Washington. The discovery process remains ongoing in the Eastern District of New
4 York.

5 The parties submit that, given the complexity of the charges contained in the Indictment,
6 and due to the events discussed above, it would be unreasonable to expect adequate preparation
7 for pre-trial proceedings and for the trial itself without a continuance of the trial and pre-trial
8 motions dates. *See* 18 U.S.C. § 3161(h)(7)(B)(ii).

9 For all of the above reasons, in view of the complexity and nature of this prosecution, and
10 the parties' need for additional time to prepare for and to complete pre-trial litigation, this Court
11 may find, pursuant to Title 18, United States Code, Section 3161(h)(7)(A) and (B), that the ends
12 of justice served by continuing the trial in this case outweigh the interest of the public and of the
13 defendants in a more speedy trial, and thus that a continuance is appropriate for the reasons stated
14 above.

15 The undersigned counsel have consulted with the defendant organizations regarding the
16 necessity for a continuance of the trial date, and the defendants acknowledge and agree to the
17 requested continuance for the above stated reasons.

18 **III. CONCLUSION.**

19 WHEREFORE, for the reasons set forth herein, the parties to this motion request that the
20 trial date in the above-captioned matter be continued until October 28, 2024, and that the Court
21 enter the proposed Fifth Amended Case Scheduling Order.
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RESPECTFULLY SUBMITTED this 18th day of January, 2023.

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically with the Clerk of the Court using the CM/ECF system on January 18, 2023 and was served via the Court's CM/ECF system on all counsel of record.

DATED this January 18, 2023.

/s/ Robert Westinghouse
Robert Westinghouse, WSBA No. 6484